

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

JFL Enterprises and
Holdings, LLC, et al.

v.

Civil No. 04-cv-314-JD

Town of New Boston, et al.

O R D E R

The plaintiffs brought suit against the Town of New Boston and twelve individuals who are or have been active in town government, alleging that the defendants treated them unfairly in their efforts to develop property in the town. After the case remained pending for more than a year, with little progress, the plaintiffs moved to dismiss the case without prejudice. The defendants objected and moved to dismiss the case with prejudice.

On September 8, 2005, the court issued an order giving the plaintiffs the option of dismissal without prejudice on the condition that, within forty-five days of the date of the order, they reimburse the defendants' for their reasonable attorneys' fees and costs incurred in the litigation. Alternatively, if the plaintiffs did not fulfill that condition within the time allowed, the order stated that the case would be dismissed with prejudice. The defendants filed a motion on November 7, 2005, seeking a dismissal with prejudice because the plaintiffs had not

reimbursed them within forty-five days of the September 8, 2005, order. The plaintiffs did not respond to the defendants' motion.

Therefore, because the plaintiffs' failed to fulfill the condition necessary for a dismissal without prejudice, the case is dismissed with prejudice.

Conclusion

For the foregoing reasons, the defendants' motion to dismiss (document no. 66) is granted. The case is dismissed with prejudice. The clerk of court shall enter judgment accordingly and close the case.

SO ORDERED.


Joseph A. DiClerico, Jr.
United States District Judge

November 30, 2005

cc: Charles P. Bauer, Esquire
Gordon R. Blakeney, Jr., Esquire
Stephen A. Duggan, Esquire
John Paul Kacavas, Esquire
David L. Nixon, Esquire
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